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REMARKS

In view of the preceding amendments and the following remarks, Applicants respectfully request the Examiner to reconsider the patent application identified above and withdraw the present rejection. Claims 1-9 are pending in the present application, all of which stand currently rejected.

Double Patenting:

The Examiner rejected Claims 1, 8 and 9, alleging non-statutory obviousness-type double patenting over Claims 1 and 12 of United States Patent 6,663,648, which is owned by the same assignee as the present application.

The Examiner noted that a "terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection" if the patent is commonly owned. Accordingly, Applicants have enclosed a Terminal Disclaimer, disclaiming any portion of the term of a patent granted for the present application which extends beyond the term of United States Patent 6,663,648.

Drawings:

The Examiner objected to the drawings under 37 CFR 1.83(a) regarding the "coaxial arrangement" as recited in Claim 3. With respect, Figure 2 shows an outer body tube 24 and an inner body tube or guidewire tube 26" in a "coaxial arrangement". In fact, the description states explicitly that it has a coaxial structure:

> Alternately, distal end assemblies can incorporate dual-lumen tubes having parallel rather than coaxial lumens, for example. *The illustrated distal end assembly 16 has a coaxial structure.*

(Application, page 8 lines 15-17.) In other words, the term "coaxial" refers to one tube inside another, and distinguishes a "dual-lumen" tube which is a single extrusion with more than one parallel lumen. In addition, the inner and outer body tubes of a catheter shaft are flexible, and the inner body tube will tend to move and shift position within the outer body tube.

35 U.S.C. §112

The Examiner rejected Claims 1, 8 and 9 under 35 U.S.C. §112 regarding antecedent basis for "the balloon" and "the proximal lumen", and double inclusion for "an inflation lumen".

Applicants have amended the Claims to clarify antecedent basis and inclusion.

35 U.S.C. §103

The Examiner rejected Claims 1-9 over Ressemann et al. (5,425,711) in view of Stivland et al. (6,387,075).

Applicants respectfully submit that the cited references fail to teach or suggest the present invention. First, the Ressemann and Stivland reference cannot be combined in the manner suggested by the Examiner, because the core wire 408 of Stivland is in a proximal tube 406, as opposed to the stiffening member 25 of Ressemann, which is distal of the proximal tube at an intermediate transition section. In other words the core wire 408 of Stivland extends through a proximal tube into a proximal "manifold" or hub.

Second, the references specifically teach away from the suggested combination. For example, Ressemann discloses a balloon catheter shaft with a hypotube proximal shaft and a transition member extending distally from the hypotube. In contrast, the core wire 408 of Stivland is meant to essentially *replace* a proximal hypotube:

> What would be desirable is a catheter including a mid-region having a distally increasing flexibility while retaining the advantages of hypotube.
>
> Present catheters having hypotube proximal shafts have the advantages of hypotube and one disadvantage of hypotube, that of sometimes excessive springiness. In use, current catheters can exhibit a large amount of spring or whipping about of the

> unconstrained portion. This can make handling the catheter somewhat difficult in the operating room. *What would be desirable is a catheter having the advantages of a proximal hypotube portion but without the spring of current hypotube shafts.*

(Stivland 6,387,075, column 1, line 63 – Column 2, line 7.)

In other words, the core wire 408 of Stivland is intended to have "the advantages of a proximal hypotube portion" on the one hand, but *without* actually using a hypotube. If the suggested combination were attempted, the core wire would extend *inside* a high-strength proximal tube, and would not teach or suggest the present invention which recites the stiffening wire is *distal* of a high-strength proximal tube.

Applicants respectfully request the Examiner to allow the present invention.

Respectfully submitted,
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